

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT
2005 OCT 14 P 12:41

DEBRA P. HACKETT
U.S. DISTRICT COURT
Northern District of Alabama
10501427H

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

OCT 13 2005

THOMAS K. KAHN
CLERK

HOOVER REYNOLDS,

Petitioner-Appellant,

versus

TERRANCE MCDONNELL,
ATTORNEY GENERAL OF ALABAMA,

Respondents-Appellees.

Appeal from the United States District Court for the
Middle District of Alabama

ORDER:

To merit a certificate of appealability, appellant must show that reasonable jurists would find debatable both (1) the merits of the underlying claim, and (2) the procedural issues he seeks to raise. See 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 478, 120 S.Ct. 1595, 1600-01, 146 L.Ed.2d 542 (2000). Because Reynolds's § 2254 petition is second or successive, and he has not obtained an order from this Court authorizing the district court to consider it, he has failed to satisfy the second prong of Slack. The motion for a certificate of appealability, as construed from the notice of appeal, is DENIED.

Appellant's motion for leave to proceed on appeal in forma pauperis is DENIED AS MOOT.

/s/ Charles R. Wilson
UNITED STATES CIRCUIT JUDGE

A True Copy - Attested:
Clerk, U.S. Court of Appeals
Eleventh Circuit

By: Wendell G. Daniels
Deputy Clerk
Atlanta, Georgia